

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-10 EA-07 EUR-12

NEA-10 OIC-02 ACDA-07 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 EPG-02 COME-00 DODE-00

DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01

TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04 PRS-01

SP-02 SS-15 USIA-06 /163 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 4361

C O N F I D E N T I A L USUN NEW YORK 2150

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS SITREP JULY 5, 1977

1. COMPOSITE TEXT. THE SCHEDULE FOR PREPARATION OF THE PRESIDENT'S INFORMAL COMPOSITE NEGOTIATING TEXT (INCT) REMAINS IN DOUBT. AMERASINGHE TELLS MOST INQUIRES THAT HE IS EXPECTING REPORTS FROM COMMITTEE CHAIRMEN BY LATE IN THE WEEK (JULY 8), AND HE WILL PREPARE THE TEXT FOR RELEASE EARLY IN THE FINAL WEEK OF THE CONFERENCE (JULY 11). BUT CONSIDERING THE SLOW PACE OF WORK ON ASPECTS OF THE COMMITTEE I TEXT E.G., PRODUCTION CONTROLS, FINANCIAL ARRANGEMENTS), AMERASINGHE COULD BE HARD PRESSED TO COMPLETE THE TEXT BY THE END OF THE CONFERENCE. THE CURRENT BETTING NOW FAVORS A TEXT RELEASED ON THE FINAL DAY (JULY 15).

2. COMMITTEE I. A DRAFT TEXT ON FINANCIAL ARRANGEMENTS (ANNEX I, PARA 9 A-3), PREPARED BY JOHN BAILEY
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(AUSTRALIA AND COMMITTEE I RAPPOREUR), WAS CURCULATED AT THE OUTSET OF THE COMMITTEE'S FIRST MEETING. BAILEY PREPARED HIS PAPER, WHICH WAS OUTLINED IN AN EARLIER SITREP (JUNE 30), AS CHAIRMAN OF A TECHNICAL WORKING GROUP ON FINANCIAL ARRANGEMENTS. AS THE MEMBERS OF THAT GROUP WERE QUICK TO NOTE IN THE COMMITTEE I MEETING, THE BAILEY PAPER REPRESENTS HIS PERSONAL WORK,

NOT A CONSENSUS WITHIN THE GROUP. BECAUSE THE BAILEY PAPER IS A HODGEPODGE OF SEVERAL PROPOSALS RATHER THAN A COHERENT FINANCIAL PROGRAM, AND BECAUSE IT LEAVES BLANK THE KEY PAYMENT FIGURES, THE DOCUMENT HAS NOT PROBOKED A FRUITFUL DISCUSSION. INSTEAD, IT HAS LED TO A RECITAL OF PRIOR POSITIONS BY VARIOUS DELEGATIONS. IT IS CLEAR THAT THE BAILEY PAPER HAS NOT MOVED THE COMMITTEE CLOSER TO A CONSENSUS ON FINANCIAL ARRANGEMENTS THAN IT WAS LAST YEAR WHEN "APPROACHES A AND B" WERE INTRODUCED.

3. INDIAN (JAGOTA AND VARDHAN) DOMINATED THE DISCUSSIONS IN TWO MEETINGS, WITH LENGTHY LECTURES ON THE PHILOSOPHY AND DETAILS OF FINANCIAL ARRANGEMENTS. AT ONE POINT JAGOTA INSISTED THAT FINANCIAL TERMS MUST NOT "KILL THE GOOSE THAT LAID THE GOLDEN EGGS", BUT IN THE NEXT BREATH HE REITERATED INDIA'S REVENUE SHARING PROPOSALS, WHICH IN OUR VIEW WOULD DO JUST THAT.

4. THE COMMITTEE DIVIDED ALONG NORTH-SOUTH LINES ON THE QUESTION OF ASSESSING NET PROCEEDS. DEVELOPING COUNTRIES ARGUED FOR ASSESSING REVENUES AND COSTS FROM THE ENTIRE MINE OPERATION (FROM MINING THROUGH PROCESSING). INDUSTRIAL COUNTRIES WERE EQUALLY VIGOROUS IN ARGUING THAT REVENUE SHARING SHOULD BE BASED ON MINE-SITE ACTIVITIES ONLY.
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5. ANOTHER IMPORTANT ISSUE CONCERNED THE APPLICATION OF FINANCIAL ARRANGEMENTS TO THE ENTERPRISE. DEVELOPING COUNTRIES LED BY INDIA AND PAPUA-NEW GUINEA ASSERTED THAT THE FINANCIAL TERMS UNDER DISCUSSION SHOULD APPLY ONLY TO CONTRACTORS IN THE NON-RESERVED PORTION OF THE SEABED. THE U.S. (DARMAN) RESPONDED THAT THE COMPROMISE TEST PROVIDED SPECIAL CONSIDERATION FOR THE ENTERPRISE IN TERMS OF START-UP FUNDING, BANKING OF SITES AND CERTAIN EXEMPTIONS FROM NATIONAL TAXES. BUT THE U.S. ASSUMES THAT IN ITS PAYMENTS TO THE AUTHORITY FROM NET REVENUES, THE ENTERPRISE WOULD BE TREATED ON THE SAME TERMS AS ALL OTHER OPERATORS. IN TURN, THE AUTHORITY WOULD HAVE DISCRETION TO REDISTRIBUTE REVENUES TO LDCS OR REINVEST THEM IN THE ENTERPRISE.

PROTECTION & PRESERVATION OF THE MARINE ENVIRONMENT.

8. COMMITTEE III. THE PRIVATE NEGOTIATING GROUP UNDER CHAIRMAN VALLARTA (MEXICO) MET TO DISCUSS AMENDMENTS TO ARTICLES NOT YET DEBATED THIS SESSION

7. THE CANADIANS PROPOSED AN AMENDMENT TO DELETE OR MODIFY THE WORD "WILFUL" IN ARTICLE 18(2) (H) OF PART II. THIS AMENDMENT, UNDER WHICH ACTS OF GROSS NEGLIGENCE CAUSING SERIOUS POLLUTION WOULD REMOVE A SHIP FROM INNOCENT PASSAGE, WAS OBJECTED TO BY SEVERAL STATES ON THE PROCEDURAL GROUND THAT IT WAS A COMMITTEE II MATTER AND RECEIVED NO SUBSTANTIVE SUPPORT.

8. THE USA PROPOSED AN AMENDMENT TO ARTICLE 19 REQUIRING FLAG STATES TO ESTABLISH NATIONAL LAWS TO PREVENT POLLUTION BY VESSELS ENGAGED IN DEEP SEABED MINING. THE USSR, BELGIUM AND OTHER MARITIME STATES SUGGESTED THAT THE US PROPOSAL BE AMENDED TO CLEARLY EXCLUDE VESSELS USED IN TRANSPORT AND INCLUDE ONLY

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INSTALLATIONS, STRUCTURES AND VESSELS ACTUALLY ENGAGED IN MINERAL EXPLOITATION ACTIVITIES. THE US AMEENDMENT RECEIVED SOME SUPPORT AND NO SUBSTANTIAL OPPOSITION.

9. THE FRENCH PROPOSED AN AMENDMENT TO SPECIFY THAT INCINERATION AT SEA BE TREATED AS OCEAN DUMPING UNDER ARTICLE 20 AND 26. THE AMENDMENT RECEIVED SOME SUPPORT ALTHOUGH THE US, CANADA AND NORWAY POINTED OUT THAT INCINERATION WAS ALREADY CONSIDERED TO BE OCEAN DUMPING AND THAT HIGHLIGHTING IT MIGHT CREATE THE IMPRESSION THAT OTHER FORMS OF DUMPING WERE LESS IMPORTANT.

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